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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

LISA RATZLAFF,	)	Case No. 2:21-cv-01631-JAM-KJN
	)	
Plaintiff,	)	STIPULATION AND ORDER TO
	)	DISMISS CLAIMS AND GRANT
v.	)	LEAVE TO FILE FIRST AMENDED
	)	COMPLAINT
UNITED STATES POSTAL SERVICE,	)	
UNITED STATES OF AMERICA,	)	
	)	
Defendants.	)	DISTRICT JUDGE JOHN A. MENDEZ

Plaintiff Lisa Ratzlaff and Defendant the United States respectfully submit this stipulation to resolve issues that the United States would otherwise raise in a motion to dismiss. Plaintiff's lawsuit was originally filed in Placer County Superior Court against the United States Postal Service and Kayla Joy Dryden. Dkt. 1 at 4-8. The United States removed the case to this Court, substituting the United States as Defendant in place of Kayla Joy Dryden. Dkt. 1 at 1-2; Dkt. 1-1; Dkt. 1-2. The case is therefore currently pending against defendants the United States and the United States Postal Service.

The United States is the only permissible defendant in a Federal Tort Claims Act (FTCA) case. Because the FTCA allows only claims against the United States, the parties agree to dismiss the United States Postal Service as a defendant. *See Kennedy v. U.S. Postal Serv.*, 145 F.3d 1077, 1078 (9th Cir. 1998) (affirming dismissal of an FTCA claim against USPS because "the United States is

1 the only proper party defendant in an FTCA action”).

2 The First Cause of Action in Plaintiff’s complaint (Dkt. 1 at 6-7) seeks to bring a claim under  
3 California Government Code § 815.2. The United States intended to bring a motion to dismiss this  
4 claim because California Government Code section 815.2 does not apply against the United States  
5 under the FTCA. The FTCA renders the United States liable “in the same manner and to the same  
6 extent as a private individual under like circumstances.” 28 U.S.C. § 2674. State laws that apply to  
7 public entities (like California Gov Code section 815.2) therefore do not apply to the United States  
8 under the FTCA. *See United States v. Olson*, 546 U.S. 43 (2005) (holding that the FTCA waives the  
9 federal government’s sovereign immunity only where local law would make a private person liable in  
10 tort, not where local law would make a state or municipal entity liable). To avoid unnecessary  
11 motion practice, the parties agree to amend the First Cause of Action in the complaint.

12 The Second Cause of Action in Plaintiff’s complaint (Dkt. 1 at 7-8) seeks to bring a claim for  
13 negligent hiring, supervision, or retention of employee Kayla Joy Dryden. The United States  
14 intended to bring a motion to dismiss this claim because this negligent hiring, supervision, or  
15 retention claim is barred by the FTCA’s Discretionary Function Exception. *See Heidari-Mojaz v.*  
16 *Arreguin*, No. CV 20-154-CBM-SHK(X), 2020 WL 6541991, at \*3 (C.D. Cal. Sept. 18, 2020)  
17 (dismissing negligent hiring, supervision, or retention claim brought under the FTCA because “[t]he  
18 Ninth Circuit has held claims against the federal government challenging the negligent hiring,  
19 employment, supervision and training of employees ‘fall squarely within the discretionary function  
20 exception’ to the FTCA and are ‘barred.’”). To avoid unnecessary motion practice, the parties agree  
21 to dismiss the Second Cause of Action in the complaint.

22 The parties agree that Plaintiff will file a First Amended Complaint asserting a negligence  
23 claim against the United States only under the FTCA based on alleged negligence by Kayla Joy  
24 Dryden in operating a United States Postal Service vehicle on or about May 23, 2018. The parties  
25 further agree that the United States will have 21 days from the filing of the First Amended Complaint  
26 to file a response.

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1 The parties respectfully request that the Court approve this stipulation.

2  
3 Respectfully submitted,

4 Dated: January 9, 2023

5 PHILLIP A. TALBERT  
UNITED STATES ATTORNEY

6 By: /s/ Victoria L. Boesch  
7 VICTORIA L. BOESCH  
8 Assistant United States Attorney  
Attorneys for the United States

9 Dated: January 6, 2023

10 DEL RIO & CARAWAY, P.C.

11 Charles D. Caraway (authorized 1/6/2023)  
12 Charles D. Caraway  
Attorneys for Plaintiff

13 **IT IS SO ORDERED.**

14  
15 Dated: January 9, 2023

16 /s/ John A. Mendez  
17 THE HONORABLE JOHN A. MENDEZ  
18 SENIOR UNITED STATES DISTRICT JUDGE  
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